

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: June 14, 2005

Name: Heidi A. Dare

Signature: Heidi A. Dare

**BRINKS
HOFER
GILSON
& LIONE**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Fernando R. Moncho et al.

Appn. No.: 10/670,159

Examiner: Yvonne Michele Horton

Filed: September 23, 2003

Art Unit: 3635

For: SHELTER

Attorney Docket No: 12158/5

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Transmittal (and copy)(2 pages); Petition for the Withdrawal of the Holding of Abandonment (and copy)(4 pages); Copy of Response to the Office Action Dated June 21, 2004 (13 pages); and copy of Return receipt postcard stamped September 24, 2004
- ☒ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(_____).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total	0	Minus	0	0	x \$25=	0.00		x \$50=	0.00
Indep.	0	Minus	0	0.00	x 100=	0.00		x \$200=	0.00
First Presentation of Multiple Dep. Claim					+\$180=	0.00		+\$360=	0.00
					Total	\$0.00		Total	\$0.00

Fee payment:

- ☐ A check in the amount of \$_____ is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

Heidi A. Dare

Heidi A. Dare

Registration No. 50,775

June 14, 2005

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June 14, 2005
Date of Deposit

Heidi A. Dare
Name of Applicant, Assignee or
Registered Representative

Heidi A. Dare
Signature

Attorney Docket No. 12158/5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Fernando R. Moncho et al.)	
)	
)	
Serial No. 10/670,159)	Examiner: Yvonne Michele Horton
Filing Date: September 23, 2003)	
)	Group Art Unit No. 3635
For SHELTER)	
)	

PETITION FOR THE WITHDRAWAL OF THE HOLDING OF ABANDONMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants have received a Notice of Abandonment for the above-identified application. The Notice of Abandonment indicates that the Applicants did not respond to the Office letter mailed on 21 June 2004.

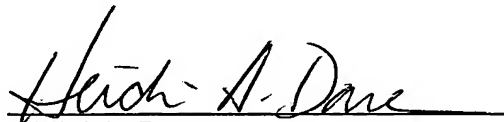
In response to the Office Action, Applicants timely filed an Amendment on September 21, 2004 by the "Certificate of Mailing Procedure" under 37 C.F.R. § 1.8. (The "Certificate of Mailing" stamp was signed by Heidi A. Dare.) Enclosed with this Petition is a copy of the Amendment dated September 21, 2004 filed in reply to the Office letter dated June 21, 2004, and a copy of the stamped-received return postcard.

The Amendment is also entered on the PAIR system at the USPTO, although it is listed by the USPTO as a "Preliminary Amendment" at the Transaction History tab.

Therefore, Applicants respectfully petition the Commissioner to withdraw the Holding of Abandonment for the application.

The Commissioner is hereby authorized to charge payment of any fees associated with this Petition for the Withdrawal of the Holding of Abandonment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Heidi A. Dare", is written over a horizontal line.

Heidi A. Dare
Registration No. 50,775
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: September 21, 2004 Name: Heidi A. Dare

Signature: Heidi A. Dare

BRINKS
HOFER
GILSON
& LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Fernando R. Moncho et al.

Appln. No.: 10/670,159

Filed: September 23, 2003

For: SHELTER

Attorney Docket No: 12158/5

Examiner:
Yvonne Michele Horton

Art Unit: 3635

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir,

Attached is/are:

- ☒ Transmittal (and copy)(2 pages);and Response to the Office Action Dated June 21, 2004 (13 pages)
☒ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(____).
☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total	0	Minus	0	0	x \$9=	0.00		x \$18=	0.00
Indep.	0	Minus	0	0	x 43=	0.00		x \$86=	0.00
First Presentation of Multiple Dep. Claim					+\$145=	0.00		+\$290=	0.00
					Total	\$0.00		Total	\$0.00

Fee payment:

- ☐ A check in the amount of \$_____ is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

September 21, 2004
Date

Respectfully submitted,

Heidi A. Dare
Heidi A. Dare (Reg. No. 50,775)



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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
On September 21, 2004

Date of Deposit

Heidi A. Dare, Reg. No. 50,775

Name of applicant, assignee or
Registered Representative

Signature

September 21, 2004

Date of Signature

Our Case No. 12158/5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Fernando R. Moncho et al.

Serial No. 10/670,159

Filing Date: September 23, 2003

For: SHELTER

Examiner: Yvonne Michele Horton

Group Art Unit No.: 3635

AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In reply to the Office Action dated June 21, 2004, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin of page 8 of this paper.

In the Claims:

Please amend claims 1, 3, 16, 17 and 28 as follows (the changes in these claims are shown with ~~strikethrough~~ for deleted matter and underlines for added matter). A complete listing of the claims with proper claim identifiers is set forth below.

1. (Currently Amended) A solar-powered, illuminated shelter comprising:
 - at least a first and a second wall, said walls extending at generally right angles to each other and being affixed to a plurality of first upstanding supports;
 - at least one roof structure affixed to said first upstanding supports;
 - a third wall extending parallel to one of said first and second walls, said third wall defining advertising space and being supported freely from said first upstanding supports, ~~and said first and second walls~~ and said roof, wherein said third wall includes solar-powered means for illuminating said advertising space.
2. (Previously Presented) The solar-powered shelter of claim 1 wherein said third wall extends at least partially beneath said roof structure.
3. (Currently Amended) A shelter comprising:
 - a plurality of posts upstanding from a foundation, said posts arranged to at least partially surround a spatial area;
 - at least one roof structure mounted to said plurality of posts, said roof structure positioned over said spatial area;
 - at least one wall secured to at least one of said posts; and
 - a panel display upstanding from said fixed foundation and unattached to said posts, ~~and said wall~~ and said roof, said panel display having a side edge aligned with at least one of said upstanding posts;
 - wherein said shelter provides at least partial protection to said spatial area from strong winds.
4. (Previously Presented) The shelter of claim 3 further comprising at least one light source, said at least one light source providing illumination for said spatial area.

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5. (Previously Presented) The shelter of claim 4 wherein said panel display further comprises an interior space defined by a pair of spaced apart panels, and said at least one light source is at least partially disposed to illuminate said interior space.

6. (Previously Presented) The shelter of claim 4 further comprising a plurality of solar panels secured to said roof structure, said solar panels providing power to illuminate said at least one light source.

7. (Previously Presented) The shelter of claim 3 further comprising a plurality of horizontal support members extending between at least two of said posts, said support members providing support for said at least one wall.

8. (Previously Presented) The shelter of claim 7 wherein said support members further comprise structures that define channels.

9. (Previously Presented) The shelter of claim 8 wherein said at least one wall comprises at least one glass panel having edges received in said channels.

10. (Previously Presented) The shelter of claim 3 wherein said panel display extends approximately perpendicularly to said at least one wall.

11. (Previously Presented) The shelter of claim 3 wherein said panel display extends at least partially beneath said roof structure.

12. (Previously Presented) The shelter of claim 5 wherein said pair of panels of said panel display are translucent.

13. (Previously Presented) The shelter of claim 12 wherein said panel display extends parallel to said at least one wall.

14. (Previously Presented) The shelter of claim 3 further comprising a bench secured under said roof structure.

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15. (Previously Presented) The shelter of claim 13 wherein said panel display comprises advertising displayed within said panel display.

16. (Currently Amended) A shelter comprising:
a plurality of supports upstanding from a fixed foundation, said supports arranged to at least partially surround a spatial area;
at least one roof structure mounted to said plurality of supports, said roof structure positioned over said spatial area and said roof structure having a first edge;
and
at least one freestanding wall structure secured to said foundation and substantially unconnected to said roof, said wall structure and having an edge extending parallel to said first edge of said roof structure.

17. (Currently Amended) The shelter of claim 16 wherein said freestanding wall structure does not transfer a substantial amount of vibration to said supports or said roof structure other than through said foundation.

18. (Previously Presented) The shelter of claim 16 further comprising at least one wall secured to at least one of said supports and extending at least partially between said roof structure and said foundation.

19. (Previously Presented) The shelter of claim 18 where in said at least one wall extends between at least two of said supports.

20. (Previously Presented) The shelter of claim 16 further comprising at least one solar-powered light source, said light source providing illumination for said spatial area.

21. (Previously Presented) The shelter of claim 20 wherein said freestanding wall structure further comprises an interior space defined by a pair of spaced apart panels, and said at least one light source is at least partially disposed in said interior space.

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22. (Previously Presented) The shelter of claim 21 further comprising a plurality of solar panels secured to said roof structure, said solar panels providing power to said light source, and circuitry and power storage componentry in communication with said solar panels is mounted within said interior space.

23. (Previously Presented) The shelter of claim 22 wherein said solar panels are linked to said circuitry and power storage componentry through said foundation.

24. (Previously Presented) The shelter of claim 18 further comprising a plurality of horizontal support members extending between at least two of said posts, said support members providing support for said at least one wall.

25. (Previously Presented) The shelter of claim 18 wherein said freestanding wall structure extends approximately perpendicularly to said at least one wall.

26. (Previously Presented) The shelter of claim 16 wherein said freestanding wall structure extends at least partially beneath said roof structure.

27. (Previously Presented) The shelter of claim 16 wherein said freestanding wall structure comprises advertising displayed within said freestanding wall structure.

28. (Currently Amended) A method of providing a wind resistant shelter comprising the steps of:

providing a plurality of upstanding supports secured to a foundation, said supports arranged to at least partially surround a spatial area;

providing a roof structure secured to said plurality of supports;

providing at least one wall secured to said at least one of said supports, said wall providing space between said foundation and said roof structure for air flow therethrough; and

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providing at least one freestanding wall structure positioned adjacent to at least one of said supports and having a space defined around the freestanding wall structure and any adjacent structure of said shelter.

29. (Previously Presented) The method of claim 28 wherein the step of providing said at least one freestanding wall structure allows said freestanding wall structure to vibrate in response to wind forces in isolation from vibrations of said supports, said roof structure and said at least one wall.

30. (Previously Presented) The method of claim 28 further comprising the step of providing a light source to illuminate said spatial area.

31. (Previously Presented) The method of claim 30 further comprising the step of providing solar panels to provide power for said light source.

32. (Previously Presented) The method of claim 28 further comprising the step of providing advertising within said at least one freestanding wall structure.

33. (Previously Presented) The method of claim 28 further comprising the step of providing solar-powered illumination means for illuminating said shelter.

34. (Previously Presented) A shelter comprising:
a plurality of walls having supports, said walls surrounding a spatial area;
a roof structure mounted to said supports;
at least one freestanding panel mounted adjacent at least one of said walls, said freestanding panel including a frame for containing advertising materials;
wherein said freestanding panel is substantially unattached to said supports or said roof structure.

35. (Previously Presented) The shelter of claim 34 wherein said freestanding panel extends at least partially beneath said roof structure.

36. (Previously Presented) The shelter of claim 34 further comprising a solar-powered light source for illuminating said advertising materials.

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37. (Previously Presented) The shelter of claim 36 further comprising a plurality of solar panels secured to said roof structure, said solar panels providing power to illuminate said light source.

38. (Previously Presented) A solar-powered, illuminated shelter comprising:

a roof structure supported by a plurality of wall structures, said wall structures being anchored securely into at least one foundation;

a display panel extending adjacent to at least one of said wall structures but structurally separate therefrom, said panel including advertising materials.

39. (Previously Presented) The solar-powered shelter of claim 38 further comprising a plurality of solar panels secured to said roof structure.

40. (Previously Presented) The solar-powered shelter of claim 39 further comprising at least one light source powered by said plurality of solar panels.

41. (Previously Presented) The solar-powered shelter of claim 38 wherein said wall structure comprises a vertical panel and an upstanding support.

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REMARKS

Claims 1-41 are pending in this application. Favorable reconsideration and allowance are respectfully requested.

In the Claims:

Applicants have amended claims 1, 3, 16, 17 and 28. No new matter has been added. Claims 17 and 28 have been amended to correct typographical errors. The term "not" has been inserted in claim 17 to clarify that the freestanding wall structure does not transfer a substantial amount of vibration to the supports or the roof structure. Support for this amendment can be found throughout the specification and in particular in paragraph [0051] (Page 16, lines 7-8.) Claims 1, 3, and 16 have been amended to clarify that the freestanding wall is substantially unconnected to the roof. Support for these amendments can be found throughout the specification and in paragraph [0028].

I. Claim Rejections under 35 U.S.C. § 112

The Examiner has rejected claim 17 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner requested clarification how the freestanding panel can transfer a "substantial" amount of vibration to the supports. Applicants have amended claim 17 to include the term "not" to indicate that the freestanding wall structure does not transfer a substantial amount of vibration to the supports or the roof structure. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claim 17 under 35 U.S.C. § 112, second paragraph.

II. Claim Rejections under 35 U.S.C. § 102 (b)

Claim 28 has been rejected under 35 U.S.C. § 102 (b) as being anticipated by Leuthesser (U.S. D252,215). The Examiner states that Leuthesser discloses the method of providing a shelter including the steps of providing a plurality of upstanding supports; providing a roof secured to a foundation; providing at least one wall; and

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providing at least one freestanding wall structure such that there is a space between the freestanding wall and the wall structure.

Applicants respectfully traverse the Examiner's rejection based on Leuthesser. Applicants respectfully request reconsideration of the rejected claims in light of the traversals discussed below.

Leuthesser discloses a bus stop shelter having posts, walls, and roof. As shown in FIG. 1, **both** the rear wall (indicated by W on the Examiner's marked attachment) and the side wall (indicated by FP) are connected to the roof (R). At least two posts extend into the space around the side wall (FP) to connect the side wall (FP) to the bracket connected to the roof (R). The two posts can be clearly seen in FIGS. 1, 4 and 5, extending from the side wall (FP) to the roof (R). FIG. 2 also clearly shows a post connecting the side wall (FP) to the roof (R). Leuthesser fails to teach or suggest at least one freestanding wall structure.

In contrast, Applicants' claimed invention in claim 28 requires a freestanding wall structure positioned adjacent to at least one of the supports and having a space defined around the freestanding wall structure and any adjacent structure of the shelter. As shown in FIG. 1, the freestanding wall structure is substantially free standing, separate from the rest of the shelter. Leuthesser fails to teach or suggest a freestanding wall structure having a space defined around the freestanding wall structure. As noted above, the wall in Leuthesser is indeed attached to the other structures.

Therefore, the Applicants assert that the claimed invention is not anticipated by the Leuthesser reference. The Applicants respectfully request that the rejection of claim 28 under 35 U.S.C. §102(b) be withdrawn.

III. Claim Rejections under 35 U.S.C. § 103 (a)

Claims 3-7, 10-27 and 29-41 have been rejected under 35 U.S.C. § 103 (a) as being unpatentable over Leuthesser in view of Robbins (U.S. 5,107,637). With reference to claims 3, 15, 16, 27, 32, 34 and 38, the Examiner states that Leuthesser discloses the basic shelter except for explicitly disclosing whether the panel displays advertising material. The Examiner states that Robbins teaches a panel of a shelter

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displaying advertising material and that it would have been obvious to one of skill in the art to provide the shelter of Leuthesser with advertising as taught by Robbins.

The Examiner states that elements of each of the remaining dependent claims, 4-7, 10-15, 18-27, 29-33, 35-37 and 39-41 are taught by Leuthesser in view of Robbins. With respect to claim 17, the Examiner states that the display walls of Leuthesser as modified by Robbins inherently transfer a substantial amount of vibration. This rejection is moot in light of the amendment to claim 17.

Applicants respectfully traverse the Examiner's rejections based on Leuthesser in view of Robbins since the references alone or in combination fail to teach or suggest Applicants' claimed invention. Even if the teachings of Leuthesser and Robbins could be combined, all of the recited elements in Applicants' rejected claims would not be found in the combination. Furthermore, the Examiner has not explained how it would be obvious to modify the structure in Leuthesser or Robbins. None of the prior art shows a wall substantially disconnected from the remaining structure.

Robbins discloses a shelter structure including a photovoltaic illumination system. The shelter includes a back wall 20 and a side wall 22 which, together with the wall module 16, support the roof 12. (Col. 3, lines 1-3). As shown in FIG. 1, the roof 12 is connected to and supported by the wall module 16 across the entire width of the wall module 16. The back wall 20, side wall 22 and wall module 16 are supported by a plurality of posts that surround the shelter and are also connected to the roof 12. Robbins fails to teach or suggest a freestanding wall structure.

As stated above, Leuthesser discloses a bus stop shelter having posts, walls, and roof connected to the posts and each of the walls. Leuthesser does not teach or suggest a freestanding wall panel. Leuthesser and Robbins together or individually fail to teach or suggest a free standing wall structure. Furthermore, the Examiner has not explained how it would be obvious to modify the structure in Leuthesser or Robbins or Zale. None of the prior art shows a wall substantially disconnected from the remaining structure. For example, Robbins shows a wall completely connected to the roof.

In contrast, Applicants claimed invention in independent claim 3 requires a panel display upstanding from the fixed foundation, and the panel display is unattached to the

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posts arranged to at least partially surround a spatial area and the roof. Applicants' independent claim 16 requires at least one freestanding wall structure. Applicants' claimed invention in independent claim 34 requires a freestanding panel wherein the freestanding panel is substantially unattached to the supports or to the roof. Independent claim 38 requires a display panel extending adjacent to a wall structure, but structurally separate therefrom.

Therefore, Applicants assert that the claimed invention is not obvious over any combinations of Leuthesser and Robbins. Applicants respectfully request that the rejection of claims 3-7, 10-27 and 29-41 under 35 USC §103(a) be withdrawn.

The Examiner rejected claims 8 and 9 under 35 USC §103(a) as being unpatentable over Leuthesser in view of Robbins as applied to claim 1 above and further in view of Zale (U.S. 4, 018,016). The Examiner states that Zale teaches channel members and glass panels.

Applicants respectfully traverse the Examiner's rejections based on Leuthesser in view of Robbins in view of Zale since the references alone or in combination fail to teach or suggest Applicants' claimed invention. Even if, *arguendo*, the teachings of Leuthesser, Robbins and Zale could be combined, all of the recited elements in Applicants' rejected claims would not be found in the combination.

Zale teaches a waiting station for buses having a beam and column construction for shipment in manageable sections and for assembly *in situ* with the use of hand tools. (Col. 1, lines 20-23.) As shown in at least FIGS. 1 and 5, the back frame 10 is connected to the two side frames 11, 12 and the roof assemble 13 is connected to all the frames 10-12. (See also Col. 2, lines 2-4.) FIG. 11 is an exploded perspective view showing another method of assembling the roof structure on the back and side frames of the shelter. (Col 1, lines 61-63.) Zale fails to teach or suggest a freestanding wall structure.

As discussed above Leuthesser and Robbins also teach a roof structure connected to the back and side walls. Leuthesser, Robbins and Zale together or individually fail to teach or suggest a free standing wall structure. As discussed above for independent claim 3 from which claims 8 and 9 depend, claim 3 requires a panel

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display upstanding from the fixed foundation and the panel display is unattached to the posts arranged to at least partially surround a spatial area.

Therefore, Applicants assert that the claimed invention is not obvious over any combinations of Leuthesser, Robbins and Zale. Applicants respectfully request that the rejection of claims 8 and 9 under 35 USC §103(a) be withdrawn.

IV. Claims 1 and 2

The Examiner has indicated on the Office Action Summary that claims 1-41 are rejected. However, in the detailed action, the Examiner has not provided support for the rejections of claims 1 and 2. Reference is made to claim 1 being unpatentable over Leuthesser in view of Robbins on page 7 in the rejection of claims 8 and 9, but no such rejection is included in the detailed action.

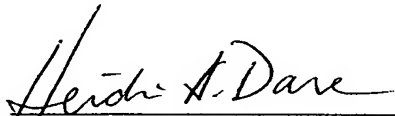
For the reasons stated above for independent claims 3, 16, 28, 34 and 38, Applicants assert that claim 1 is also not obvious over the combinations of Leuthesser, Robbins and Zale. None of these references teaches or suggests a third wall being supported freely from the first upstanding supports and the first and second walls as required by claim 1. Therefore, Applicants assert that claims 1 and 2 are also patentable.

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SUMMARY

Pending Claims 1-41 as amended are patentable. Applicants respectfully request the Examiner grant early allowance of this application. The Examiner is invited to contact the undersigned attorney for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in cursive script, reading "Heidi A. Dare", written over a horizontal line.

Heidi A. Dare
Registration No. 50,775
Attorney for Applicants

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Serial No. 10/670,159
Applicant: FERNANDO R. MONCHO ET AL.
Client/Matter No.: 12158/5

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